

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>0000054406</b>	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. <b>PCT/EP2004/003103</b>	International filing date (day/month/year) <b>24.03.2004</b>	Priority date (day/month/year) <b>31.03.2003</b>	
International Patent Classification (IPC) or national classification and IPC			
<p>Applicant <b>BASF AKTIENGESELLSCHAFT</b></p>			

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>2</u> sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																								
<p>4. This report contains indications relating to the following items:</p> <table> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input checked="" type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003103

## Box No. I

## Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:

international search (Rule 12.3 and 23.1(b))  
 publication of the international application (Rule 12.4)  
 international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

the international application as originally filed/furnished  
 the description:

pages 1-25 as originally filed/furnished

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

the claims:

nos. \_\_\_\_\_ as originally filed/furnished

nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19  
09.03.2005 with the  
letter of 08.03.2005

nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

the drawings:

sheets \_\_\_\_\_ as originally filed/furnished

sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3.  The amendments have resulted in the cancellation of:

the description, pages \_\_\_\_\_  
 the claims, nos. \_\_\_\_\_  
 the drawings, sheets/figs \_\_\_\_\_  
 the sequence listing (specify): \_\_\_\_\_  
 any table(s) related to sequence listing (specify): \_\_\_\_\_

4.  This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages \_\_\_\_\_  
 the claims, nos. \_\_\_\_\_  
 the drawings, sheets/figs \_\_\_\_\_  
 the sequence listing (specify): \_\_\_\_\_  
 any table(s) related to sequence listing (specify): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

International application No.

PCT/EP2004/003103

**Box No. II Priority**

1.  This report has been established as if no priority had been claimed due to the failure to furnish within the prescribed time limit the requested:
  - copy of the earlier application whose priority has been claimed (Rule 66.7(a)).
  - translation of the earlier application whose priority has been claimed (Rule 66.7(b)).
2.  This report has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rule 64.1). Thus for the purposes of this report, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

**See Box V.2.**

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003103

**Box No. V** **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

## 1. Statement

Novelty (N)	Claims	1-12	YES
	Claims		NO
Inventive step (IS)	Claims	1-12	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-12	YES
	Claims		NO

## 2. Citations and explanations (Rule 70.7)

Reference is made to the documents cited in the search report. The numbering relates to the sequence in which they are listed therein.

D1 and D2 disclose catalyst systems consisting of Ni(0), tertiary phosphorus compounds (D1: phosphane, D2: phosphinite), hydrocarbylaluminium chlorides and heteroorganic aluminium compounds such as dialkylaluminium alcoholates (D1: column 2, lines 15-68, examples 1, 3, 4, 6); D2: column 3, line 60 - column 5, line 68, examples 1-17). The catalysts are used to prepare dienes; the use thereof for hydrocyanation is not mentioned.

D1 and D2 differ from the current application by virtue of the phosphorus compounds b). The use of phosphites and phosphonites is not described.

Claims 1-12 are therefore novel over D1 and D2. Since D1 and D2 do not describe use in hydrocyanation reactions, those documents are not relevant to the assessment of inventive step (PCT Article 33(3)).

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003103

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

D3 claims the hydrocyanation of [2,2,1]-5-heptene-2-carbonitrile using a catalyst system that contains Ni(0), a trivalent phosphorus compound and a Lewis acid (column 2, line 12 - column 3, line 36). Aluminium isopropoxide and titanium isopropoxide can act as Lewis acids (column 3, line 59).

D3 is the closest prior art. The application differs from D3 in that a further Lewis acid is used in addition to aluminium isopropoxide or titanium isopropoxide. The applicant has shown that the reaction selectivity is improved by the combination of two Lewis acids.

Novelty and inventive step can therefore be acknowledged with respect to claims 1-12 (PCT Article 33(2) and (3)).

Claims 1-12 are industrially applicable (PCT Article 33(4)).